IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

WP No. 24196 of 1995

Between :

A.P. State Road Transport Corporation
Rep. by its Managing Director,
Mushirabad, Hyderabad ..Petitioner

And

The Presiding Officer,
State Transport Appellate Tribunal,
A.P., Hyderabad and two
others ..Respondents

Dated : 14th November, 2006

ORDER :

The Andhra Pradesh State Road Transport Corporation (for short `APSRTC'), the petitioner in the present writ petition aggrieved by an order in AP No. 43/1994 dated 23.8.1995, the present writ petition is filed with the prayer as follows :

> "For the reasons stated in the accompanying affidavit, the petitioner prays that this Hon'ble Court may be pleased to issue a writ of certiorari or any other appropriate writ or direction calling for the records relating to the orders passed by the 1st respondent in A.P.No. 43/94, dt. 23.8.95 and set

aside the same as illegal and improper and pass such other or further order or orders as deem fit and proper in the circumstances of the case."

The 3rd respondent herein filed an application before the 2nd respondent for grant of a stage carriage permit on the Town service route known as Jagitial to Kanapur. The said application was rejected by proceedings of the 2nd respondent dated 17.2.1994 on the ground that "the route is inspected and it is found that in portion, the road is extremely narrow and the vehicles (buses) cannot ply on the road. Hence, permit is rejected." Aggrieved by the same, the 3rd respondent carried the matter in the above mentioned appeal which stood allowed by the impugned order. Hence the present writ petition.

The 1st respondent allowed the appeal on the ground that the 2nd respondent did not give the statistical information regarding the width of the road and therefore in the absence of any material there is no guidance in law to decide whether a particular road is a narrow road or otherwise.

It is asserted in the affidavit filed in support of the writ petition at para 7 that on the same road, the APSRTC is also plying the bus. Relevant portion of the

said para 7 read as follows:

> "7. I submit that the A.P.State Road Transport Corporation is operating good number of services on the entire sector of the proposed route to cater the needs of the traveling public and there is no need to grant any additional permit…."

The Supreme Court in **Mithilesh Garg v. Union of India**[1] held that the Regional Transport Authority has a power under the Act to refuse an application for grant of permit by giving reasons.

Safety of the users of the road is certainly one of the relevant considerations while granting or refusing any permit like the one granted to the 3rd respondent herein by the impugned order. The fact that the road on which the permit is sought is a very narrow road in my opinion is one of the most important and relevant considerations in deciding the issue whether the permit should be granted or not. The 1st respondent in my view is not justified in coming to the conclusion that in the absence of any legal definition, the narrowness of the road is required to be statistically demonstrated before the Tribunal. It should have been no doubt better if only the 2nd respondent gave the accurate information regarding the width of the road to avoid any arbitrariness in the decision making process, but the absence of such

information in my view need not necessarily lead to a conclusion on the part of the 1st respondent that the permit as sought by the 3rd respondent should be granted. The 1st respondent in my view should have called upon the 2nd respondent to produce the necessary material in support of the decision reached by the 2nd respondent. The fact remains that the 2nd respondent is the authority who is expected to have first hand information regarding the various conditions obtaining in the area on which the permit is sought. When the 2nd respondent rejected the application of the 3rd respondent on the ground that the road is a very narrow road, *prima facie* such finding is required to be given a great deal of weightage and cannot be lightly brushed aside. The only other factor in the present case is that the petitioner is also running a bus through the same road though it is asserted by the learned counsel for the petitioner at the time of arguments that the permit in favour of the petitioner was granted long prior to the application of the 3rd respondent. It is not the length of time for which a particular service is operating on a particular route that makes it legal, but whether such an operation is consistent with the safety of the users of the road is a matter which is required to be examined by all the concerned while granting or continuing such permits.

In the circumstances, I do not see any

reason to doubt the veracity of the statement of the 2nd respondent that the road on which the 3rd respondent sought a permit is a narrow road. Consequentially the decision of the 3rd respondent not to grant a permit in my view did not call for any interference by the Tribunal, but at the same time, the same road cannot be said to be suitable and consistent with public safety in the case of the corporation. The writ petition is therefore disposed of while setting aside the impugned order directing the 2nd respondent to forth with take appropriate steps for canceling the permit granted in favour of the petitioner and complete the same within a period of four weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of.

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knk
13.11.2006

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[1] AIR 1992 SC 443